

Ser. No. 09/578,174
Art Unit: 3628

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REMARKS

Claims 12-24 remained rejected under 35 USC § 101 as being directed to non-statutory subject matter. Claims 1-11 and 25-28 are allowed.

- 5 Claims 1-28 are allowable over the prior art of record.

35 USC § 101 Rejection

- 10 Claims 12-24 do not recite any structure or functionality to suggest that a computer performs the recited claims. The recited claims fail to include the guidelines established by recent court decisions. In particular, "computer-implemented" is only trivial usage in the preambles of claims 12-24.

- 15 Applicant has further amended claims 12-24 to recite physical transformations and uses of specific machines.

- 20 In particular, physical transformations occur when attributes and offers are received over the electronic medium, since such information must be encoded and decoded as electronic signals suitable for transmission. Also, a specific machine is recited since the trade agents are executing on one or more computers. Comparing of offers is done using software executing on the computer.

- 25 An "electronic medium" is part of the technological arts, as are computers and software executing on the computers. Thus a process using an "electronic medium" and executing on a computer is directed toward using electronic media to conduct transactions. Claims reciting a process executing on a computer and sending data over an electronic medium are thus directed to statutory subject matter.

- 30 The procedures, computations, and flows described in the specification can be implemented using "proprietary software" (page 5, line 1) or "standardized software"

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(page 5, line 26). Using built-in capabilities of "existing exchanges (Such as Ariba or CommerceOne)" is also disclosed in Applicant's specification (page 5, line 24). The invention can be used in both "business-to-consumer (B2C)" and "business-to-business (B2B)" scenarios (page 25, lines 17-19).

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The specification refers to the well-known term "electronic exchange" that uses "aggregation" to group buyers and sellers (pages 2-3). Under "terminology" on page 8, "electronic commerce" is defined as occurring over an "**electronic medium**":

1. Electronic Commerce - Commerce conducted over an electronic medium
2. Electronic Exchange - A platform in which providers of goods and services buy, sell, and exchange those entities.

An "electronic medium" is part of the technological arts.

15 In view of the above, it is submitted that claims 1-28, as previously amended, are in a position for allowance. This application was filed with formal drawings that have not been amended. Applicant believes that a full and complete response to the office action has been made. Reconsideration and re-examination is respectfully requested. Allowance of the claims at an early date is solicited.

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If the Examiner believes that a telephone interview would expedite prosecution of this application, he is invited to telephone the undersigned at (831) 476-5506.

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Respectfully Submitted,



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